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Senate Floor continued ...

S 1394

FY88 State Dept Authorization

WALLOP amendment 842 to protest Soviet ICBM tests near Hawaii, pending at recess

HELMS perfecting amendment 843 to above WALLOP amendment 842 to record the Senate in opposition to obstructing natl defense programs in order to comply with treaties or provisions thereof which the president has certified that the Soviets are violating unless such violations cease and Hawaii is never again placed in jeopardy by a Soviet ICBM test, pending a recess (modified)

DOLE amendment 841 to authorize U.S. contribution to the Internatl Wheat Council, agreed to by voice

PELL amendment 845 to approve amendments to the Constitution of the Intergovtl Cmte for European Migration, agreed to by voice

CRANSTON amendment 846 to authorize granting of diplomatic and consular privileges and immunities to offices of the Commn of the European Communities which are established in the U.S., agreed to by voice

MITCHELL amendment 847 to provide for a Samantha Smith Memorial Exchange Program to promote youth exchanges between the U.S. and Soviet Union, agreed to by voice

PELL (for REIGLE) amendment 848 to express sense of Congress regarding self-determination of Estonia, Latvia, and Lithuania, agreed to by voice

HELMS (for TRIBLE) amendment 849 to make available funds for studies and plans for a consolidated training facility for the Foreign Service Institute, agreed to by voice

HELMS amendment 850 to provide limitations on housing expenses for U.S. employees at the UN, agreed to by voice

HELMS amendment 852 to reinstate congressional oversight of expenditures made from fund known as "Emergencies in the Diplomatic and Consular Services," agreed to by voice
[continued October 6]

Week of October 5**Monday, October 5:**

Not in session

Tuesday, October 6:

S 1748

Prohibition on Importation of Products from Iran passed 93-0

S 1394

FY88 State Dept Authorization

[continued from October 5]

WALLOP amendment 842 to protest Soviet ICBM tests near Hawaii (modified), withdrawn

HELMS modified perfecting amendment 843 to above WALLOP amendment 842 to record the Senate in opposition to obstructing natl defense programs in order to comply with treaties or provisions thereof which the president has certified that the Soviets are violating unless such violations cease and Hawaii is never again placed in jeopardy by a Soviet ICBM test tabled by 52-43

man rights violations in Tibet by China, withdrawn

PELL amendment 855 to above WALLOP amendment 842 to express sense of the Senate regarding provocative and dangerous Soviet activities near Hawaii, fell when the above WALLOP amendment 842 was withdrawn

WALLOP amendment 856 to express sense of the Congress regarding the Soviet ICBM tests near Hawaii, as amended below, agreed to by 96-0

WALLOP perfecting amendment 857 to above WALLOP amendment 856, agreed to by voice

PELL-HELMS amendment 858 to condemn human rights violations in Tibet by China, agreed to by 98-0

BENTSEN amendment 859 to provide increased funds for a grant to the Natl Endowment for Democracy for carrying out its purposes, of which not less than \$250,000 shall be used to support elements of the free press, including free radio, and the democratic civil opposition inside Nicaragua which espouse democratic principles and objectives, agreed to by voice (modified)

SYMMS amendment 860 to express sense of the Senate that the Senate ought not to have consented to the ratification of the Panama Canal Treaties, whereby the Panama Canal was given away and that such treaties are voidable unless and until Panama formally accepts the DeConcini Reservation and should be voided by the president if such acceptance is not forthcoming within six months of the adoption of this section, pending at recess (By unanimous consent, the SYMMS amendment 860, originally offered as an amendment to the above BENTSEN amendment 859, was laid aside to be considered as a separate amendment)

MOYNIHAN amendment 861 to express sense of Congress that the president should, at the earliest possible date, invite the president of Israel to make a state visit, agreed to by voice

MIKULSKI-FOWLER modified amendment 853 to call for the immediate release of all children detained under the state of emergency regulations in South Africa, agreed to by voice

MOYNIHAN-HELMS amendment 862 to express sense of Congress that (1) by mining the Persian Gulf without notifying neutral nations engaged in maritime commerce, Iran violated internatl law; (2) the use of force by the U.S. to terminate the Iranian mining was justified under internatl laws; (3) internatl law offers a framework for such positive action, and fostering broader adherence to law promotes the security interest of the U.S., agreed to by voice

PELL technical amendment 863, agreed to by voice

COHEN amendment 864 to provide that, after September 30, 1989, no national of a communist country may be employed as a foreign national employee at U.S. diplomatic and consular missions in any country listed as a "communist country" in section 620(f) of the Foreign Assistance Act of 1961, agreed to by voice

HELMS amendment 865 to provide that it is not in the natl security interest of the U.S. for the State Dept to declare, and it shall not declare, itself to be a foreign diplomatic mission, withdrawn

S 1255

CONGRESSIONAL RECORD - SENATE

October 4, 1985

would resign in protest. On April 24, Mr. Casey sent a handwritten note of apology to Senator Goldwater, and—after Casey apologized in person the next day to the committee—I said I would stay. But the administration's failure to notify us of the mining, and the disregard for law it bespoke, did considerable harm to the relationship Senator Goldwater and I were trying to build between the Congress and the intelligence community.

The divisiveness of our debate today over policy in the gulf stems in part from this legacy of distrust and disregard for law. The dismissal of law as guidance for international affairs deprives us of one of the foundations upon which we could build a bipartisan foreign policy. That dismissal also frustrates our efforts to justify our chosen course of action in the international arena. I stated on May 23, 1985, at the American Bar Association Conference on Restoring Bipartisanship in Foreign Affairs:

To the degree that law—is seen to be, and is, the basis of our international conduct, a bipartisan foreign policy does not require a party out of office to agree with policies of the party in power, but rather simply to agree to the principles of law on which those policies are based. The same principle applies to allied and nonaligned nations, who can far more readily support, or at least accept, American policies if our conduct is seen to be based on law that binds them as well as us.

The broad support evinced both at home and abroad for our recent response of the Iranian mining operation on the high seas is founded in part on agreement as to the principles of law involved. That support stands in contrast to the discord that was the consequence of our prior rejection of international law and the institutions designed to implement it. As President Eisenhower said on December 11, 1959: "It is better to lose a point now and then in an international tribunal, and gain a world in which everyone lives at peace under the rule of law." "As I said in *Loyalties*: "We have come to regard international law as a self-imposed constraint that puts us at a disadvantage in a lawless world."

Might I suggest today that recent actions in the Persian Gulf offer a different lesson: obey the law today—you might need it tomorrow.

Mr. President, I yield the floor.

Mr. HELMS. Mr. President, I say to the Senator from New York that I do not know of any more credible way to express my support for this amendment than to ask him for the privilege of being a cosponsor of it.

Mr. MOYNIHAN. I should be most honored to do so.

Mr. HELMS. I say to the Senator it is almost identical to an amendment offered by his humble servant.

Mr. MOYNIHAN. The ranking member of our committee.

Mr. HELMS. On September 24 the Senate approved the Senator's proposal by a vote of 91 to 4, so I appreciate the Senator offering this amendment. I also appreciate his making me a cosponsor.

Mr. President, it is certainly cleared on this side.

The PRESIDING OFFICER. The question occurs on the amendment.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I, too, join in congratulating the Senator from New York on his amendment which should be accepted.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. The Senator from New York may want to examine the top of page 2 of his amendment. I believe he wants to modify the number to read "3" instead of "4."

Mr. MOYNIHAN. Oh, yes, Mr. President, I ask that the modification indicated by the distinguished Senator from North Carolina be in order.

The PRESIDING OFFICER. The Senator has that right.

Mr. MOYNIHAN. I move adoption of the amendment if there is no further debate.

The PRESIDING OFFICER. Is there further debate?

If not, the question occurs on the amendment of the Senator from New York [Mr. MOYNIHAN].

The amendment (No. 862) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 863

Mr. PELL. Mr. President, I send an amendment to the desk and ask that it may be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL) proposes an amendment numbered 863.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 21, line 2, after "section," insert the following:

"(d) In any fiscal year, if the amount to be paid to all former spouses, as computed under this section, exceeds the appropriated funds available for such payment, then the amount to be paid to each person pursuant to this section shall be reduced on a pro rata basis to such extent that the total payments do not exceed the appropriated funds available for payment to all spouses."

On page 27, line 12, after "chapter," insert the following:

"(e) In any fiscal year, if the amount to be paid to all former spouses, as computed under this section, exceeds the appropriated funds available for such payment, then the amount to be paid to each person pursuant to this section shall be reduced on a pro rata basis to such extent that the total payments do not exceed the appropriated funds available for payment to all spouses."

Mr. PELL. Mr. President, this is a technical amendment that has been cleared on both sides. Section 117 of the bill is subject to a potential point of order as creating an entitlement. This was not the intent of the sponsors and this technical amendment corrects the problem.

Basically, if left as it is, we would have an entitlement that exceeded the appropriation and that obviously is subject to a point of order.

Mr. HELMS. The Senator is correct. It is cleared on this side.

The PRESIDING OFFICER. The question occurs on the amendment of the Senator from Rhode Island.

The amendment (No. 863) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. I believe the bill is open to further amendment.

Mr. PELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 864

Mr. COHEN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maine, Mr. COHEN, for himself and Mr. BOREN, Mr. MURKOWSKI, and Mr. METZENBAUM, proposes an amendment numbered 864.

Mr. COHEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At appropriate place in the Bill, add the following section.

SEC. . EMPLOYMENT OF FOREIGN SERVICE NATIONALS

(a) PROHIBITION ON EMPLOYMENT IN COMMUNIST COUNTRIES.—

(1) After September 30, 1989, no national of a communist country may be employed as a foreign national employee at United States diplomatic and consular missions in any country listed as a "communist coun-

¹ Ibid., p. 112, para. 215.

Quoted in Hight, "You Can Run But You Can't Hide"—Reflections on the U.S. Position in the Nicaragua Case," 27 Virginia Journal of International Law 551, 563 (1987).

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try" in section 620(F) of the Foreign Assistance Act of 1961.

(2) Paragraph (1) does not apply with respect to any foreign national employee who is not permitted access to—

(A) United States Embassy or consulate grounds, vehicles, or buildings which are sited in the compound of the Embassy or consulate (including living quarters); and

(B) the residence, wherever located, of the chief of mission or the deputy chief of mission.

(D) TERMINATION OF BENEFITS FOR ENGAGING IN HOSTILE INTELLIGENCE ACTIVITIES.—

(1) The Secretary of State shall exercise the authorities available to him to ensure that the United States does not provide, directly or indirectly, any retirement benefits of any kind to any present or former foreign national employee of a United States diplomatic or consular post who the Secretary reasonably believes engaged in intelligence activities directed against the United States.

(2) The Secretary of State may waive the applicability of subsection (a) on a case-by-case basis with respect to an employee if—

(A) the Director of Central Intelligence requests such waiver, or

(B) the Secretary determines that such waiver is vital to the national security of the United States to do so and reports such waiver in advance to the appropriate committees of the Congress.

(c) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Secretary of State in consultation with the Director of Central Intelligence shall submit to the Congress a report discussing the advisability of employing foreign nationals at foreign service posts abroad, (including their access to automatic data processing systems and networks).

Mr. COHEN. Mr. President, I am pleased to offer this amendment to the Department of State authorization bill in the hopes of remedying the serious problems posed by the overwhelming numbers of Foreign Service nationals employed by our embassies in Communist countries.

This amendment would prohibit the employment of foreign service nationals in our diplomatic and consular missions in any country listed as a "Communist country" in section 620(F) of the Foreign Assistance Act of 1961. It would seek to terminate benefits for Foreign Service nationals engaged in hostile intelligence activities and require that the Secretary of State report to Congress on the advisability of employing foreign nationals at foreign service posts abroad, including their access to automatic data processing systems and networks. I would emphasize that the principal requirements of this amendment are all contained in H.R. 1777 and track the recommendations of the Senate Intelligence Committee report on embassy security.

The Intelligence Committee has evidenced its concern about embassy security on a number of occasions. I have taken a personal interest in attempting to ensure that the United States remains aware of the espionage threat posed by Soviet activities in the United States and by the activities of Foreign Service nationals and third country nationals employed in support positions in our embassies overseas.

In 1985, a committee review of reciprocity of treatment and equivalence in the size of the Soviet-bloc official presence here and the United States official presence in the Soviet Union and Eastern Europe resulted in a provision, contained in the fiscal year 1986 Intelligence Authorization Act, that the President report to certain leaders of Congress annually on disparities in size and treatment between United States and Soviet-bloc missions.

The 1985 and 1986 legislation which Senator LEAHY and I introduced mandated equivalence in Soviet and United States diplomatic missions to the United Nations, and in Soviet Embassy and consular staffs here and those of the United States in the Soviet Union. In the process of achieving this equivalence, the Soviet Union was compelled to make sharp reductions in its presence in the United States, enabling the United States Government to significantly impair the activities of the KGB in New York and Washington, DC.

Mr. President, this sequence of events led ultimately to the expulsion of all Foreign Service nationals from their support positions in our Embassy in Moscow. While this development has caused our diplomatic service there some discomfort—and we are grateful to them for bearing this inconvenience gracefully—their absence has contributed to a more secure environment. It should be noted that in June 1985, a counterintelligence expert from the FBI testified before the Senate Intelligence Committee that the Soviets enjoyed significant espionage opportunities as a result of having over 200 Soviet nationals employed at our Moscow Embassy. We learned at that time of the discovery in 1984 that typewriters in our Moscow Embassy had been bugged, giving the Soviets access to some Embassy communications. More recently, there have been a number of cases in which Foreign Service nationals have compromised our operations—probably the most significant of which are the instances in which marine guards have fraternized with Soviet nationals employed by our Embassy.

The situation in our diplomatic missions in Eastern Europe is no less worrisome today than that of the Moscow mission prior to the reductions in Foreign Service nationals. The total number of Foreign Service nationals and third country nationals employed in our embassies in those Soviet-bloc countries averages roughly twice that of the official State Department presence, and in some cases the proportion is higher. For example, in Hungary, the official American presence numbers 51 and the number of Foreign Service and third country nationals is 129. In Poland, the proportion is 235 to 88. I ask unanimous consent that a table providing detailed information on these numbers be included at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

	State Depart- ment Assis- tants	Other U.S. Agency Ameri- cans	FBI FCN (for State)	FBI FCN (for other)	Con- tract FCN (mostly guards)	Dis- tinct Ameri- cans
Bulgaria.....	20	17	26	5	(1)	(1)
Czechoslovakia.....	26	19	41	8	23	2
East Germany.....	27	15	(1)	4	35	33
Hungary.....	28	23	46	10	73	8
Poland.....	52	36	106	29	100	(1)
Romania.....	33	25	38	21	41	(1)
Soviet Union:						
Leningrad.....	16	10	(1)	(1)	?	3
Moscow.....	102	89	(1)	(1)	(1)	42
Yugoslavia.....	51	58	104	82	202	7

¹ None.

Mr. COHEN. Mr. President, it will be argued by some that the absence of Foreign Service and third country nationals in our embassies in Communist countries will present us with serious fiscal problems in funding replacements to perform support services. May I point out that some of our most sensitive intelligence information and technologies which have been extraordinarily expensive to develop have been compromised in recent successful Soviet espionage operations. The improvements suggested by this measure are cheap by comparison. These recommendations, which are enumerated in the House bill, have received the strong endorsement of the Senate Intelligence Committee. I hope that this amendment will receive the same favorable consideration here today.

I ask unanimous consent to insert into the RECORD an article by Priscilla Witt which appeared in the April 1987 Washington Monthly. It is entitled, "Do You Want Any More Secret Documents Put in the Safe, Mr. Ambassador?" "No, Ivan, That's All for Tonight."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

"DO YOU WANT ANY MORE SECRET DOCUMENTS PUT IN THE SAFE, MR. AMBASSADOR?"
"NO, IVAN, THAT'S ALL FOR TONIGHT."

(By Priscilla Witt)

It was the oldest trick in the book. A female Soviet agent seduced and then recruited U.S. Marine Sergeant Clayton J. Lonetree, a guard who served at the U.S. embassy in Moscow from 1984 to 1986. In one of the worst breaches of security in recent history, Lonetree gave KGB agents extremely damaging intelligence, including names and photos of U.S. agents and floor plans of the most sensitive parts of the embassy.

Like all marines in his assignment, Lonetree, who confessed in January, had been warned about such female agents, called "swallows" in the trade. Marine guards at the embassy are barred from letting women enter their quarters and discouraged from having close contacts with the Soviets. But this swallow didn't have to hang out in some smoky Moscow club joint for the chance to ensnare Lonetree. She only had to show up every day for work as a translator at the American embassy. Like more than 260 other Soviets, she was a paid employee of the U.S. government.

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CONGRESSIONAL RECORD -- SENATE

October 6, 1987

Our Moscow embassy has not employed Soviet citizens since last fall's U.S.-Soviet tit-for-tat expulsion of diplomatic staff that began with the Walker family spying affair in 1985. But everywhere else non-U.S. citizens, or foreign service nationals (FSNs), outnumber Americans' alongside the 11,000 U.S. civilians working at our other embassies are 20,000 foreign nationals and probably at least that many "contract hires" and personal servants. The ratio is especially high in the Third World, where diplomats have learned to endure their "hardship" assignments by surrounding themselves with enough natives to do everything from translate to towel them dry. In Rwanda, for example, 15 to 20 Americans work out of a compound that employs 250 foreign nationals.

The State Department's Inman Commission Report on Embassy Security, issued two years ago in the wake of the Beirut embassy bombing, recognized that foreign nationals pose a security threat: "[I]t is a well-known fact that there are security-related drawbacks to employing FSNs." Those drawbacks haven't moved the department to jettison its foreign workers, though; FSNs often occupy posts as guards, clerks, researchers, translators, secretaries, drivers, handymen, and personal assistants to diplomats. Diplomats argue they are worth the risk because locals are relatively cheap to employ, and can deal with local languages, customs, and bureaucracies more easily than Americans.

They're also pretty good at cooking and cleaning. Fact is, FSNs make possible the cushy lifestyle that the foreign service officer corps has long enjoyed. Among the recently expelled foreign nationals at the Moscow embassy, for example, were baby sitters and ballet teachers. So attached have our diplomats become to this foreign office featherbedding that, while the State Department insists on spending \$4.4 billion to reinforce the perimeters of our embassies, very little is being done to guard against the snailwails inside.

THE BARON'S MAIDS

The art of snooping for state secrets has been well perfected by the Congress of Vienna in 1814. As six kings, hundreds of nobles, and thousands more hangers-on flocked to the city to help create a post-Napoleonic Europe, thousands of Austrians put themselves at their government's disposal as collectors and purveyors of secrets. "That historic gathering provided unparalleled opportunities for the host government of Prince Metternich and his monarch, Emperor Francis, to employ local agents in a massive espionage operation to which many successors aspired," says Michael Mosettig, who has written about Metternich.

The Wild Bill Donovan of post-Napoleonic Austria was Baron Haxer, who built the largest secret service in Europe. Like any seasoned spook, he knew the key to obtaining foreign secrets was to infiltrate the household corps. By the time the diplomat checked into their hotels and palaces, the baron controlled all the maids and servants. While he provided the diplomats with endless amusements, the maids rummaged through their rooms in search of interesting scraps, according to Mosettig. The strategy didn't work on the British though, who, ever careful, burned their trash and hired their own maids.

The classic modern example of local-agent espionage is the Cicero case of World War II. During the war years, the neutrality of Turkey made it a hothouse of espionage and secrecy. It may not have made Hollywood, but in terms of intrigue, it was Casablanca times two. In the heat of plot and counter-

plot, the Allies nearly blew the cover off the secret D-day invasion at Normandy.

A key figure in the Allied operation was the British ambassador to Turkey, Sir Hughe Knatchbull-Hugesson. An experienced diplomat and close friend of British Foreign Minister Anthony Eden, Sir Hughe was briefed on all major Allied decisions. So, it turns out, was Eleyza Bazna, Sir Hughe's Turkish valet and guard, who doubled as a German spy.

Throughout 1943, Bazna, whose talents included being a skilled locksmith, removed and photographed key Allied documents Sir Hughe kept in his private safe. Many of the telegrams and documents Bazna, whose code name was Cicero, gave the Nazis detailed Allied plans to mount a massive invasion through France. Much to Sir Hughe's—and the Allies'—relief, the Germans felt Bazna's information was too good to be true. In fact, the only reason the Germans weren't waiting for the Allies on the beaches of Normandy was that they couldn't confirm Bazna's information through another source.

America responded to the Cicero affair by opening itself up to more snooping. Flush with Marshall Plan funds, U.S. diplomats hired thousands of native employees, many of whom, though skilled, were desperately willing to take even the most routine and tedious assignments. Which, by and large, is what they got. After gauging the market, diplomats suddenly had lots of laundry to be picked up and meals to be catered. University-educated FSNs became especially useful. The careers of FSOs depend largely on the cables each sends back to Washington. Using educated foreign nationals to do the grunt work—translating local government documents, chasing down this or that statistic—foreign service officers could impress the home office with ever more elaborate, if not more valuable, cables.

Over the years, the State Department has insisted that, when they're not helping diplomats impress their bosses or busy flicking feather dusters, foreign nationals serve a vital function. Most countries, the argument goes, have their own idiosyncratic systems for all the small but crucial transactions of life—mail delivery, telephone systems, car repair, shipping, internal travel—as well as for such amenities as making theater reservations or finding a good doctor or dentist. The customs surrounding these services are presumed to be beyond the ability of Americans to fathom. Bob West, director of States' Office of Foreign Service Nationals, echoes the opinion of the vast majority of FSOs: "Without foreign nationals in most places, we could just pack it in." Yet it's not as if we limit our use of foreign nationals to the most desolate and difficult parts of the world. At the U.S. embassy in London, for instance, 284 Americans somehow need 364 FSNs to help them deal with the exotic mysteries of British culture.

Another explanation for hiring foreign nationals is that they are necessary because of the "generalist" policy that governs foreign service postings. Under this system, officers are transferred every two or four years, often to completely different parts of the world. Part of the motive behind this policy is sound: to combat clientitis, the dangerous tendency for foreign service officers to identify more closely with the client state's interests than with the United States'. Yet the result is that our diplomats are often embarrassingly unfamiliar with the language, history, and culture of the region to which they are assigned. Only one in ten foreign service officers stationed in Iran in 1973, for instance, was even minimally competent in Farsi, the country's principal language. Which means according to

Andrew Steinman, assistant dean of the School of Foreign Service at Georgetown University, that FSNs "provide continuity for the embassy . . . they are the institutional memory of the place."

There's no doubt that foreign nationals greatly help diplomats, especially in countries with bureaucracies like Russia's. Yet other countries seem to get along fine with the lot fewer than we do. The Japanese, for example, employ an average of one foreign national per Japanese diplomat—less than half the American ratio—while West Germany gets by with only one for every three Germans. Britain and France have a similarly modest number of foreign nationals, and the Soviets and the Chinese manage with virtually no foreign workers at all.

MESSAGES TO THE KREMLIN

On a quiet night not long ago, the American embassy in a small Third World country was the scene of an armed attack. A small squad of commandos climbed the wall surrounding the building and, knowing the electronic guard system, made their way undetected to the building's roof. There, after a few moments, they located hatches, unlocked by someone in advance, and entered the top floor. Easily disarming the warning system, the men entered the section of the embassy where political and intelligence activities are carried out.

The incident was not reported in any newspapers or State Department cables because the "commandos" were neither terrorists bent on planting bombs nor enemy intelligence agents stealing secrets and placing bugs. They were Americans, members of a crisis management team testing the embassy's security. But the team cracked the building's defense using information and assistance that could have been provided by FSN accomplices. A consultant to the team, experienced in crisis management, says, referring to the presence of FSNs, "It was like locking the front door and leaving the back door open."

This is nothing most U.S. diplomats don't already know. Particularly in communist and other authoritarian countries, it's almost a given that they're being spied on by their local workers. Foreign national spies are just another form of surveillance, like bugged walls and tapped phones, which westerners living in such countries learn to assume are always present. But that, according to diplomats, is the beauty of the system. They can get their shirts starched and at the same time keep an eye on the spies. Retiring ambassador to the U.S.S.R., Arthur Hartman, once joked that knowing his chauffeur was a KGB agent made it easy to send messages to the Kremlin.

Diplomats adopt intricate precautionary measures to guard against spying. Daniel Southard, Beijing correspondent for *The Washington Post*, describes one such routine at the U.S. embassy there: "The diplomat removed the ribbon from his typewriter, slipped over to his office safe and placed the ribbon inside for the night. . . . Had the diplomat forgotten to secure the ribbon for the night, an embassy guard would have been there later to tape a pink slip on the desk to remind him of his error. Higher officials concerned with such matters would have followed that up with a harsh reprimand."

One problem with routines like these, of course, is that FSN spies, watching them carried out day after day, can figure out ways around them. In 1965, for instance, a congressional study of security at the U.S. embassy in Moscow turned up something no one expected: bugs inside typewriters in the building's most sensitive areas. These bugs

October 8, 1981

CONGRESSIONAL RECORD - SENATE

3 15505

would record and transmit whatever was typed. Moreover, they required frequent battery changes, which pointed to someone who had repeated access to the typewriter.

The State Department treats its thousands of FSN clerks, secretaries, receptionists, and researchers as kept far away from sensitive files and messages. But in the commotion of office life such segregation is hard to accomplish. This is especially true in peaceful, out-of-the-way posts where routines are informal—but through which sensitive information passes that may be crucial to security in hotter spots of the world.

New precautions are being taken. The vast building program now underway on American compounds includes creating separate work areas for intelligence and FSN-related functions. But such strict working arrangements are not flawless; they have been in effect at the embassy in Moscow for years, for instance, but that didn't prevent Sergeant Ionetree's libido from luring him into spilling secrets.

If anything, the possibility that classified information might be pilfered by foreign nationals has increased as organizations like the Defense Department and the CIA have moved their intelligence gathering operations from low profile field offices to fancy suites inside U.S. embassies.

Having foreign nationals around, even in the most menial jobs in unrestricted areas can blow an agent's cover. According to Moorehead Kennedy, former hostage and number two man at the Iranian embassy, a keen FSN/spy in the payroll office can notice that, month after month, the salary of a certain FSO doesn't include the standard insurance deduction, a dead giveaway the officer is with the CIA.

In his book, "Ayatollah in the Cathedral", Kennedy relates one of those narrowly averted screwups that makes one wonder how often similar ones aren't caught. Shortly before the embassy was taken over, a new CIA officer was added to the staff and assigned to the economics section. "Somewhat concerned," he writes, "I went to the CIA station chief to discuss what this newcomer's specific duties would be. Most of the economics staff, I pointed out, were locally recruited Iranian citizens of long tenure and experience who would be quick to spot anyone without a credible economic/commercial portfolio. Moreover, we had to assume that our local staff was under pressure to report to the revolutionary authorities. This difficulty has not occurred to the station chief."

Low level information can also be invaluable to terrorists. Since the mid-sixties, 70 American diplomats have been killed and hundreds injured in terrorist attacks. It's impossible to say how many of these attacks utilized information provided by agents inside embassies. But many of the diplomats victimized by terrorists were attacked on routes that must have been known to FSNs in advance.

Foreign nationals have also been suspected of playing more direct roles in terrorist incidents. In 1976 for instance, U.S. Ambassador to Lebanon Francis Meloy, Jr. was abducted from his car, which had inexplicably crossed the border into Moslem West Beirut, and shot. About the assassination, an ex FSO who was a friend of the ambassador's, says, "We always thought the driver had something to do with it. If anyone knows your route and your habits, it's your local."

TRIOJAN HORSE OF SNOOPS

While locals can be a source of intuitive, genuine information about a country, our extensive use of them encourages U.S. diplomats to forgo learning the language or cus-

oms of the country to which they are assigned. More often than genuine disinformation, this diplomatic handicap results in benign, but equally harmful, forms of misinformation. In many cultures, particularly in Asia and Africa, it is essential politeness to tell the listener what he or she wants to hear. And of course, in all cultures it is simple wisdom to echo the opinions of a high American official, who has power over the employee.

When all other excuses fail, the foreign service establishment rationalizes its use of FSNs by hiding behind the bottom line. Foreign service nationals, it argues, are more cost-effective than American workers in similar jobs. Replacing the average FSN—whose salary is between \$5,000 and \$20,000—with an American, costs anywhere from \$100,000 to \$140,000. State Department officials point out that in some countries where unemployment, underemployment, and inflation are high—such as Egypt and Israel—the U.S. can hire an engineer or agronomist with a PhD for less than \$20,000. An American equivalent, including transportation, housing, and training, would cost at least five times as much.

Some logic. The State Department is spending \$4.4 billion to keep spies and terrorists out of U.S. diplomatic compounds, but because it "saves" money by hiring locals, it simply opens the newly fortified gates to a Trojan horse full of potential snoops. Worse, there are many new gates set to open. The department's Office of Foreign Buildings, which formerly averaged fewer than three new buildings a year, is now committed to between 30 and 40 a year. That means more construction in the next few years than in two preceding centuries of American diplomacy. While the bricks and mortar go up, the department is spending millions of dollars on increasing its force of foreign workers, a large percentage of whom are being put to work as, you guessed it, security guards.

Mr. COHEN. Mr. President, I think the amendment is fairly straightforward. It seeks to eliminate over a 2-year period of time foreign nationals who have access to our U.S. Embassies, the compounds, access to the cars that are located on them, to the services provided within the compounds, and the residences of the Ambassadors and chiefs of mission.

It certainly is not a panacea for the amount of espionage carried on against the United States, but it will go a great distance, I think, in reducing the significant threat of espionage activity directed against the United States.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, events, recent and otherwise, certainly demonstrate that this Senator's amendment is not only a good one, but it is an essential one. Speaking for this side, we are willing to accept it.

Does the Senator desire yeas and nays on the amendment? I have accepted it for this side. The distinguished chairman is considering it.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. PELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. PELL. Mr. President, I have had a chance to examine this amendment and to ascertain what the effects of it would be on the administration.

As I understand it, the cost would be considerable, somewhere between \$100 and \$200 million, which are the figures I was given.

Second, when it comes to moving in this area and getting rid of local employees, I think we will find tremendous complications ensuing. I think we have to assume that in hostile countries or governments with hostile regimes, any of the local employees who are hired are not under the control of the U.S. Government but of their own government, which has put them very often in the way of the job. You have to assume that.

Working, as I have, behind the iron curtain, you assume that no matter how old and how trusted and how faithful the foreign service locals may appear, they are not trustworthy and are under the control of the local police, KGB, and so forth, and guard yourself accordingly.

Therefore, on balance, I think this amendment is not necessary and will cause tremendous complications in posts in hostile areas, and I oppose it. I move to table the amendment.

Mr. HELMS. I ask for the yeas and nays.

Mr. COHEN. Mr. President, I would like to offer a couple of comments before the Senator from Rhode Island moves to table the amendment.

First, we should recall what happened when Secretary Shultz went to Moscow recently and, for all practical purposes, had to conduct our own negotiations—our own private sessions—in something of a glorified trailer, because he knew that our Embassy had been totally compromised. He assumed that everything had been compromised within our own Embassy there.

So, when you measure the question of cost, what is the amount that we are spending on intelligence gathering capabilities today? What is the cost of one weapons system? What is the cost of one system that has been compromised as a result of foreign nationals having substantial access to our embassies abroad? I suggest to the distinguished chairman that the cost of a compromise far exceeds anything that we would be required to pay Americans working in our own embassies.

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I point out that China has no difficulty functioning in Moscow. They have no foreign nationals, nor any here that I am aware of. They function very well.

To the credit of our personnel in Moscow, as a result of the Soviets doing for us what we were unwilling to do for ourselves, we now are functioning rather well. The State Department personnel employed there are bearing up and are carrying out their responsibilities.

So costs should be a factor but not the predominant factor. If anything, the question of cost weighs in favor of excluding people who are there not to simply carry on. As the chairman said, they are employees. But they are more than employees. They are, in fact, spies, and they may not all be KGB intelligence agents. They may only be housekeepers and cleaning people. They may be chauffeurs. They may be mechanics. But each one of those individuals is designed to pick up some piece of information about our people who are working there—their marital problems, whether one of our people has a particular weakness, any point of vulnerability. Those individuals are there to collect that information to report to the police, as the chairman has said and to try to at least exploit those deficiencies or weaknesses on the part of our personnel or our buildings.

So, it is not simply a case of them being employees. At one time they were described as being loyal employees of the United States. The fact is that whether they are under pressure or whether they are trained to gather the information, they do in fact gather information which can be used to exploit the vulnerabilities of our personnel.

(Mr. GRAHAM assumed the chair.)

Mr. COHEN. I would like to reiterate that I think it is important that we not allow the continuation of a compromise of our embassies and our intelligence-gathering capabilities by employing foreign nationals, unless the Secretary can certify it is in our national security interest to do so.

I urge opposition to the motion to table.

Mr. SARBANES. Mr. President, will the Senator yield for a couple of questions?

The PRESIDING OFFICER. Does the Senator from Maine yield to the Senator from Maryland?

Mr. COHEN. Yes.

Mr. SARBANES. First of all, let me say I am sympathetic to what the Senator is trying to do. I want to just ask about the terms of the amendment itself.

As I understand it, under section (1), after September 30, 1989, no such foreign national could be employed. Is that correct?

Mr. COHEN. Except with the exceptions of paragraph (2).

Mr. SARBANES. Whom would that cover?

Mr. COHEN. That is up to the Secretary. I do not know whom it will cover. I am trying to exclude the personnel within the compounds, within the residence of the chief of mission.

There may be people who are employed outside of the embassy for translation purposes which I cannot anticipate at this point, but the basic idea is to keep foreign nationals out of our embassies.

Mr. SARBANES. It seems to me that paragraph (c), which calls for a report from the Secretary or the Director of the CIA, should be the first step in this process of ascertaining the advisability of such employment. This, of course, is what the Senator provides for in paragraph (c), as I understand it, requiring the report within 6 months. Yet at the same time the Senator is asking for the report to determine the advisability, in paragraph (a) he is making a definitive judgment about the advisability.

Mr. COHEN. Let me say that I have satisfied myself after having served on the Intelligence Committee since 1983 that it is not advisable to employ such foreign nationals. Nonetheless, I do not seek to impose my judgment in its most categorical form on my colleagues.

This amendment says that within 2 years foreign nationals will no longer be employed. During those 2 years, hopefully in the next 6 months called for in paragraph (c), the Secretary has an escape clause here. He can come up with a report that perhaps will overwhelm my own judgment that this is what we ought to do. But it provides an escape hatch for the Secretary to make that recommendation.

What I do not want is the Secretary giving us a study in 6 months after which we would come back and make a decision. I would like to say a decision has been made. We have stated in our report that it is not in our security interest to continue to employ foreign nationals—certainly in the numbers that have been employed—but, in my judgment, to employ them at all.

If the Secretary can persuade the Congress otherwise, he can come back within 6 months and do so.

Mr. SARBANES. Except the amendment does not deal with the number of foreign nationals employed. It precludes it all together.

Mr. COHEN. That is right.

Mr. SARBANES. I think the point the Senator was making earlier about the numbers is a valid point. The question is what the impact would be of totally precluding such employment. There is the difficulty in getting the sources to replace them, which of course is proving to be a problem right now at the Embassy in Moscow, although I think it should be done and I think they should be moving more quickly.

Now, this amendment would extend the prohibition to a number of other countries as well, as I understand it. This in effect is already taking place.

Mr. COHEN. It has taken place in the Moscow Embassy, not by virtue of our action but by virtue of the Soviet action. They are the ones who took all their employees out.

Mr. SARBANES. In retaliation for our cracking down on their numbers here.

Mr. COHEN. Right.

Mr. SARBANES. Now I believe the Senator extends this to a list of other countries. Does the Senator have the list of the countries?

Mr. COHEN. I can get the full list for the Senator. I pointed out several: All of the Eastern bloc countries. China would be included. It would include Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, Romania, all the Soviet Republics, those in Leningrad, Moscow, and Yugoslavia.

Mr. SARBANES. Yugoslavia?

Mr. COHEN. That is right.

Mr. SARBANES. Does the Senator know whether we have the language capacity to make that changeover?

Mr. COHEN. I think that the necessity will force some changes in terms of our language schools and the allocation of them, but that, by the way, would be covered under the amendment.

Mr. SARBANES. How?

Mr. COHEN. Under section (2) on page 2 the Secretary may waive the applicability of subsection (a) on a case-by-case basis with respect to an employee if (A) the Director of the Central Intelligence Agency requests it or (B) the Secretary determines it is in the national security interest to do so. He has to at least file a report.

Mr. SARBANES. That may be a way to address the problem, but I cannot envision any foreign national we would employ who would not have some access to the Embassy or consular grounds, vehicles, or buildings. They might have limited access, but this says that they must have no access whatever.

Mr. COHEN. Unless the Secretary submits a report, determines that the waiver is in the national security interest, and he reports that waiver in advance. That is all. In other words, he can make a determination.

Mr. SARBANES. Paragraph 1 does not apply with respect to any foreign national employee who is not permitted access.

Mr. COHEN. That is right.

Mr. SARBANES. It means you could not—

Mr. COHEN. You can employ foreign nationals who do not have access to the Embassy compound itself.

Mr. SARBANES. What kind of employment would that be? Employment of a foreign national by our Embassy almost by definition will require some access by the employee to the Embassy or consular grounds.

Mr. COHEN. Then that is covered under section (2) of the exceptions.

Mr. SARBANES. Vehicles or buildings. If that were the case, you could

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not have a waiver. Is it the Senator's intention that they should be able to give a waiver to such a person?

Mr. COHEN. They can give a waiver provided it is vital to our national security interest to do so and such waiver is reported to the Congress.

Mr. SARBANES. Where does it say that?

Mr. COHEN. On page 2, section (2)(B).

Mr. SARBANES. And is it the Senator's understanding that that waiver applies without regard to paragraph (2)?

Mr. COHEN. It does not apply.

Mr. SARBANES. Paragraph (a)(2)?

Mr. COHEN. The waiver applies to those who have access to the Embassy if the Secretary certifies it is in our national security interest to employ such people.

Mr. SARBANES. I think it would be helpful if the Senator would just outline what he envisions would happen in that case.

Mr. COHEN. Basically, the amendment establishes a policy of saying that there will be no more foreign national employees in our Embassies within a 2-year period of time. On October 1, 1989, there will be no more foreign nationals employed in the Embassy.

The exception would be if they are not allowed access to the Embassy itself, living quarters of the Ambassador, or to the Chief of Mission, or Deputy Chief of Mission. There are several exceptions. The Secretary of State can waive the applicability of that prohibition if the Director of the CIA requests it or, second, if the Secretary determines that a waiver is required by national security interest and reports such waiver to the Congress.

So there are several escape clauses for the Secretary in the event he determines that it is imperative and compelling that there be such foreign national employed, even with access to the Embassy compound or the Embassy itself.

Mr. SARBANES. So the Secretary could have a report indicating that he wanted to waive the prohibition for a particular employee because the Director of Central Intelligence had requested it?

Mr. COHEN. Or because the Secretary determines that it is in the national security interest to do so. It is either one of those cases. In other words, the Director of the CIA may say, "Look, we need to have this. We can't have the laws as stated. We want to waive the reason might be. We think under the circumstances, this would be recommended. Or the Secretary of State, notwithstanding the position of the Director of Central Intelligence, might come to the conclusion that a compelling national interest requires us to employ these individuals under these circumstances. We would like to know about it in advance.

The amendment puts a burden upon the Secretary of State to come forward to show why we need to continue to employ foreign nationals in our Embassy, given the track record that we have established to date, and given the fact that they are there not only to help with housecleaning chores but, in fact, to gather information on or American citizens who are working there.

Mr. SARBANES. My final question is, Where do we assume the burden for the replacement?

Mr. COHEN. I am sorry?

Mr. SARBANES. Where do we assume, in your amendment, the burden to accomplish this replacement?

Mr. COHEN. I think the burden is imposed upon the State Department itself to pay for the additional cost.

Mr. SARBANES. Does your amendment provide for that?

Mr. COHEN. No, because there is no estimate we can firmly fix on this. I guess you can measure it against the kind of systems that have been compromised, and I think we come out a net winner in terms of the bottom line costs. But there are no legitimate estimates that I have received and, therefore, there has been no dollar figure included.

The PRESIDING OFFICER. Does the Senator from Maine yield the floor?

Mr. COHEN. Yes.

The PRESIDING OFFICER. The Senator from Maine yields the floor.

The Senator from Rhode Island.

Mr. PELL. Mr. President, reading the waiver provision pretty carefully, I would like to ask the Senator from Maine if the Secretary of State, if he chose to, could waive the prohibition, bearing in mind that in any event under present law the Secretary of State is trying to reduce the Foreign Service locals. But my question is, Does he have that power?

Mr. COHEN. The amendment specifically states that he may waive the applicability of section (A) on a case-by-case basis, provided he certifies that it is in our national security interests to do so and reports that in advance to the Congress.

Mr. PELL. Right. And if he felt it was advisable in a particular case, as long as he lists them?

Mr. COHEN. That is correct.

Mr. PELL. On that basis recognizing the popularity of the Senator's amendment, and in view of the record that we have established, the legislative record, I would be inclined to recommend its acceptance by the Senate and would suggest we vote on it.

Mr. HELMS. Mr. President, I have already indicated the approval on this side.

The PRESIDING OFFICER. Is there any further debate?

Mr. COHEN. Mr. President, I ask unanimous consent that the request for a roll call be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, the request for a roll call is vitiated.

Is there any further debate?

Mr. SARBANES. Mr. President, could I just ask the Senator one question? It does not apply to a third-country national working for our Embassy in a Communist country, does it?

Mr. COHEN. It applies to all foreign nationals working in our Embassies.

Mr. SARBANES. To nationals of a Communist country?

Mr. COHEN. In a Communist country.

Mr. SARBANES. That is right. But we could hire a NATO national, for example?

Mr. COHEN. Yes; that is correct.

Mr. SARBANES. It does not apply to that.

Mr. COHEN. No.

The PRESIDING OFFICER. Is there any further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 264) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I just want to take a minute or so here if I can. I do not have an amendment to send to the desk. I do not know when it will come up again, but earlier we had a brief discussion on the amendment proposed by the Senator from Idaho, Senator SYAMS, which, by unanimous consent, will be brought up as a separate matter without any further amendment to it. It may be that this amendment will not be considered until later this afternoon, this evening, or tomorrow.

But I just wanted to take a couple of minutes, because I am sure it will be one that will provoke some debate, to bring to the attention of my colleagues the operative provision of the proposed amendment by the Senator from Idaho and a little bit of historical analysis, if I could.

The operative provision, the resolve clause, if you will, of the Senator from Idaho's amendment says that: "The Senate might not to have consented to the ratification of the Panama Canal Treaty whereby the Panama Canal was given away and the said treaty, this is the important language, 'shall be voidable unless and until Panama formally accepts the DeConcini reservation and should be voided by the President if such acceptance is not forthcoming.'"

The assumption in the amendment, of course, is that the DeConcini reservation was not agreed to at the time the Panama Canal Treaties, in the plural, were signed and ratified.

I ask unanimous consent that the transcript of the specific treaty be